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21 Attorneys for Plaintiff

22 CURTIS FLYNN

23 **UNITED STATES DISTRICT COURT**  
24 **CENTRAL DISTRICT OF CALIFORNIA**  
25 **EASTERN DIVISION**

26 CURTIS FLYNN,

27 Plaintiff,

28 v.

29 SWISS INTERNATIONAL AIR LINES  
30 AG,  
31 and SWISS INTERNATIONAL AIR  
32 LINES, LTD.,

33 Defendants.

**CASE NO. 5:23-cv-1942**

**COMPLAINT FOR DAMAGES**

**JURY TRIAL DEMANDED**

1 Plaintiff CURTIS FLYNN, by and through his respective attorneys, NELSON &  
2 FRAENKEL, LLP and KREINDLER & KREINDLER LLP, files his Complaint for  
3 Damages, against Defendants SWISS INTERNATIONAL AIR LINES AG, and SWISS  
4 INTERNATIONAL AIR LINES, LTD. Plaintiff respectfully alleges as follows:

5 **THE PARTIES**

6 1. This action seeks damages for the personal injuries suffered by Plaintiff as a  
7 result of an Accident (“Accident” as used herein refers to an accident as defined by the  
8 Montreal Convention<sup>1</sup>) on Swiss Airlines Flight LX 40 on September 27, 2021 from  
9 Zurich, Switzerland to Los Angeles, California.

10 2. Plaintiff CURTIS FLYNN (“Plaintiff”) is a resident of Riverside County,  
11 California.

12 3. Defendant SWISS INTERNATIONAL AIR LINES AG (“SWISS AIR AG”)  
13 is a Swiss corporation with principal place of business in Switzerland. SWISS AIR AG is  
14 a wholly owned subsidiary of Deutsche Lufthansa, AG, a German corporation, part of the  
15 Lufthansa Group, and a member of the Star Alliance, which includes a codeshare  
16 agreement with United States airlines.

17 4. Defendant SWISS AIR INTERNATIONAL AIR LINES, LTD. (“SWISS  
18 AIR LTD.”), is a Swiss corporation with a principal place of business in Basel, Switzerland.

19 5. Defendants SWISS AIR AG and SWISS AIR LTD (hereinafter collectively  
20 referred to as “SWISS AIR”) are and were common carriers engaged in the business of  
21 transporting passengers by air on international flights.

22 6. Defendants SWISS AIR operate principal offices for the transaction of  
23 business in the United States at 625 RXR Plaza, Uniondale, NY 11553.

24  
25  
26  
27 <sup>1</sup> “Montreal Convention” refers to the Convention for the Unification of Certain Rules Relating to  
28 International Carriage by Air, May 28, 1999 (entered into force on November 4, 2003), reprinted  
in S. Treaty Doc. No. 106-45.

**JURISDICTION AND VENUE**

7. This Court has subject matter jurisdiction over the plaintiff's claims under 28 U.S.C. § 1331 because they are governed by the Montreal Convention of 1999. The Montreal Convention is a treaty ratified by the United States Congress that went into effect in November 2003.

8. Subject matter jurisdiction is proper under Article 33 of the Montreal Convention because:

- a. Plaintiff's place of destination was located within the territory of a State Party to the Convention, the United States of America; and
- b. Plaintiff's principal and permanent residence was at the time of the Accident and remains the United States of America; and Defendants SWISS AIR operate services for carriage of passengers by air either on their own aircraft, or on another carrier's aircraft pursuant to a commercial agreement to or from the United States of America; and Defendants SWISS AIR conduct their business of carriage of passengers by air from premises leased or owned by Defendants or by another carrier with which they have a commercial agreement.

9. Subject matter jurisdiction also is proper under Montreal Convention Article 1(3) because the course of international travel during which Plaintiff became injured, though operated by successive carriers, was regarded by Defendants SWISS AIR as a single operation, and the ticketing arrangement between Plaintiff and Defendants SWISS AIR was entered into with the objective intent of forming a cohesive contract for international carriage.

10. Venue in this District satisfies the requirements of 28 U.S.C. § 1391, *et seq.*, in that a substantial part of the events and/or omissions giving rise to these claims occurred

1 in this judicial district, and Defendant is subject to personal jurisdiction in this County and  
2 State and are engaged in business and reside in this County and State.

3 11. This court has personal jurisdiction over Defendants SWISS AIR because the  
4 Accident which is the subject of these claims occurred shortly before arrival to Los Angeles  
5 International Airport (LAX) and California is therefore the place of injury.

6 12. This court has personal jurisdiction over Defendants SWISS AIR because  
7 SWISS AIR have purposely availed themselves of the privilege of doing business in  
8 California through their widespread activities at California-area airports, including  
9 multiple scheduled international flights each day.

10 13. Personal jurisdiction is also appropriate over Defendants SWISS AIR  
11 because SWISS AIR's affiliations within the United States are so continuous and  
12 systematic as to render them essentially at home here and therefore subject to the general  
13 jurisdiction of the United States District Courts. In California specifically, Defendants  
14 SWISS AIR operate a ticketing office at Los Angeles International Airport (LAX), as well  
15 as a maintenance and/or cargo facility at LAX located at 5721 W. Imperial Highway, Los  
16 Angeles, California 90045-6301.

17  
18 **FACTUAL ALLEGATIONS AND FIRST CAUSE OF ACTION FOR PERSONAL**  
19 **INJURIES UNDER THE MONTREAL CONVENTION**

20 14. Plaintiff hereby incorporates by reference, as though fully set forth herein,  
21 paragraphs 1-13, and alleges as follows.

22 15. At all times herein relevant, Defendants SWISS AIR were and are  
23 commercial common carriers engaged in the business of international air transportation of  
24 passengers.

25 16. At all times herein relevant, Defendants SWISS AIR employ cabin and flight  
26 crews responsible for the safe and secure operation of their flights and the safety and well-  
27 being of their passengers.

1           17. At all times herein relevant, Defendants SWISS AIR were responsible for the  
2 training, management, supervision, and/or control of their flight and cabin crews including,  
3 but not limited to, the crew's adherence to standard safety policies and protocols.

4           18. On September 27, 2021, Plaintiff CURTIS FLYNN, was traveling on the  
5 final leg of a round trip international itinerary from Los Angeles, California to Frankfurt,  
6 Germany to Berlin, Germany to Zurich, Switzerland to Los Angeles, California.

7           19. On September 27, 2021, Defendants SWISS AIR operated and controlled a  
8 certain jet aircraft, designated as Swiss Airlines flight LX 40 (the "subject aircraft"), from  
9 Zurich, Switzerland to Los Angeles, California. (the "subject flight").

10           20. On September 27, 2021, Plaintiff CURTIS FLYNN was a fare-paying  
11 passenger lawfully ticketed to fly aboard the subject flight.

12           21. On September 27, 2021, the subject flight was conducted on an aircraft  
13 owned, leased, operated, staffed, or otherwise controlled by Defendants SWISS AIR.

14           22. On September 27, 2021, Defendants SWISS AIR employed a cabin crew  
15 aboard the subject flight responsible for the safe and secure operation of the flight and the  
16 safety and well-being of their passengers.

17           23. On September 27, 2021, Defendants SWISS AIR were responsible for the  
18 training, management, supervision, and control of their cabin crew members aboard the  
19 subject flight, including but not limited to the cabin crew's adherence to standard safety  
20 policies and protocol.

21           24. On September 27, 2021, while seated aboard the subject aircraft during the  
22 subject flight, Plaintiff CURTIS FLYNN was injured as the result of an Accident.

23           25. Specifically, Plaintiff CURTIS FLYNN was caused to become injured when  
24 a member of Defendant SWISS AIR's cabin crew failed to apply the brake on a service  
25 cart, allowing it to roll backwards, and then abruptly applied the brake, causing cart to tip  
26 and the top tray with bottles and drinks to strike Plaintiff on the hand.

1           26. Plaintiff's injuries resulted from an Accident under Article 17 of the Montreal  
2 Convention because his injuries were caused by an unexpected or unusual event or  
3 occurrence external to him, and not by his own internal reaction to the ordinary operation  
4 of the aircraft.

5           27. As a result of the aforesaid Accident, Plaintiff CURTIS FLYNN was injured.

6           28. As a result of the aforesaid Accident, Plaintiff CURTIS FLYNN was  
7 seriously injured.

8           29. As a result of the aforesaid Accident, Plaintiff, CURTIS FLYNN, was  
9 permanently injured.

10           30. As a result of the aforesaid Accident, Plaintiff CURTIS FLYNN suffered  
11 from pain, agony and mental anguish, and in the future shall continue to suffer from same.

12           31. As a result of the aforesaid Accident, Plaintiff CURTIS FLYNN suffered  
13 great economic loss and in the future shall continue to suffer from same.

14           32. As a result of the aforesaid Accident, Plaintiff CURTIS FLYNN was forced  
15 to expend large sums of money on medical treatment and in the future shall continue to  
16 expend sums of money on same.

17           33. As a result of the aforesaid Accident, Plaintiff CURTIS FLYNN was deprived  
18 of his enjoyment of life, pursuits and interests and in the future shall continue to be deprived  
19 of same.

20           34. Pursuant to Article 21(1) of the Montreal Convention, Defendants SWISS  
21 AIR, as air carriers, shall not be able to limit its liability for damages arising under  
22 paragraph 1 of Article 17 and not exceeding 128,821 Special Drawing Rights for each  
23 passenger.

24           35. Pursuant to Article 21(2) of the Montreal Convention, Defendants SWISS  
25 AIR, as air carriers, shall not be liable for damages arising under paragraph 1 of Article 17  
26 to the extent that they exceed for each passenger 128,821 Special Drawing Rights only if  
27 Defendants prove that: (a) such damage was not due to the negligence or other wrongful  
28

1 act or omission of the carrier or its servants or agents; or (b) such damage was solely due  
2 to the negligence or other wrongful act or omission of a third party.

3 36. As a result of the foregoing, Defendants SWISS AIR are liable to pay full,  
4 fair and reasonable damages to Plaintiff CURTIS FLYNN pursuant to the Montreal  
5 Convention.

6 37. Defendants SWISS AIR cannot meet their burden of proving that their  
7 negligence did not cause or contribute to the aforesaid accident and the resulting injuries  
8 to Plaintiff CURTIS FLYNN.

9 38. Defendants SWISS AIR cannot meet their burden of proving that the injuries  
10 sustained by Plaintiff CURTIS FLYNN were caused solely by the acts of third parties.


11 39. As a result of the Accident, and of Defendants SWISS AIR's actions and  
12 inactions, Plaintiff was injured. Defendants SWISS AIR are liable to Plaintiff for his  
13 damages suffered as a result of his injuries.

14 40. As a result of the foregoing, Defendants SWISS AIR are liable to Plaintiff  
15 for all allowable damages proven without limitation, in an amount to be determined by the  
16 jury.

17 **WHEREFORE**, Plaintiff CURTIS FLYNN hereby demands judgment against  
18 Defendants SWISS AIR in an amount to be determined at trial, together with interest, costs  
19 and disbursements of this action.

20  
21 Date: September 22, 2023

NELSON & FRAENKEL, LLP

22  
23 By:   
24 Stuart R. Fraenkel  
Nicole C. Andersen

25 KREINDLER & KREINDLER LLP  
26 Justin T. Green  
27 Erin R. Applebaum  
28 Vincent C. Lesch

*Attorneys for Plaintiff  
Curtis Flynn*

**JURY TRIAL DEMAND/REQUEST**

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Plaintiff Curtis Flynn hereby demands a trial by jury.

Date: September 22, 2023

NELSON & FRAENKEL, LLP

By



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*Attorneys for Plaintiff*